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February 14, 2018

**BY ECF**

The Honorable Alison J. Nathan  
United States Magistrate Judge  
Southern District of New York  
Thurgood Marshall Courthouse  
40 Foley Square  
New York, New York 10007

**Re: *City of Almaty, Kazakhstan, et ano. v. Mukhtar Ablyazov, et al.,*  
Case No. 15 Civ. 5345 (AJN) (KHP)**

Dear Judge Nathan:

We represent the City of Almaty, Kazakhstan and BTA Bank (the “Kazakh Entities”). We write regarding the Hague Request to the Republic of Cyprus that Your Honor issued on March 31, 2017, seeking account records from the Cyprus branch of FBME Bank, which funded the investments at issue in this action. [ECF No. 295].

*First*, counsel for the Kazakh Entities committed in the Letter of Request to act as a confidential courier for that request and all related documents. In late December of 2017, the Kazakh Entities received an initial production of documents from the Republic of Cyprus Ministry of Justice in response to the Hague Request, but noticed that certain materials appeared to be missing from that package. Upon inquiry, the Ministry confirmed that documents had been accidentally omitted, and agreed to supplement their response, which was received approximately one month later, on January 22, 2017. Copies of the entire production were then produced to all defendants in this action, and the Kazakh Entities can provide the Court with copies of the Ministry’s production if so desired.

*Second*, based on the information contained in the above-described response from Cyprus, and at the request of the Cypriot Ministry of Justice, the Kazakh Entities have attached a proposed Second Letter of Request under the Hague Convention for the Court’s approval. This Second Letter of Request also seeks records from FBME Bank in Cyprus, specifically, records for the FBME accounts that received funds flowing into FBME Bank, which were then transferred internally among accounts at FBME, before being wired to New York to fund the investments at issue in this case. In other words, the Kazakh Entities’ first Letter of Request sought information on the money *leaving* FBME Bank, and having reviewed those records, the Kazakh Entities now seek information on the money *entering* and transferred internally at FBME Bank. The Kazakh Entities inquired with the Ministry whether it would be possible to obtain records relating to these accounts under the initial Letter of Request, but were informed that a new Letter of Request was required. The Kazakh Entities are hopeful, however, that given a direct line of communication with the relevant officials at the Ministry of Justice, any response to this Letter of Request will be expedited.

Pursuant to 28 U.S.C. § 1781(b) and the Hague Convention on the Taking of Evidence Abroad, the Kazakh Entities therefore respectfully submit this application requesting that the Court issue a Hague Convention Request for International Judicial Assistance to the Central Authority of

the Republic of Cyprus, in the form attached hereto as Exhibit 1.<sup>1</sup>

If the attached proposed Second Letter of Request is acceptable to the Court,<sup>2</sup> we respectfully request that Your Honor endorse this application, and take the following actions:

1. The Kazakh Entities respectfully request that Your Honor sign both of the duplicates of the Second Letter of Request that are attached to the hand-delivered copy of this letter application.
2. The Kazakh Entities respectfully request that Your Honor then direct the Clerk of the Court to:
  - a. apply the seal of the Court to both signed copies of the Second Letter of Request;
  - b. file a copy of the signed Second Letter of Request in the docket of this action; and
  - c. return the signed copies of the Second Letter of Request to the undersigned counsel for translation and transmission to the Central Authority of the Republic of Cyprus, at the below address:

The Ministry of Justice and Public Order  
125 Athalassas Avenue  
1461 Nicosia, Cyprus

Thank you for your consideration of this request.

Respectfully,

/s/ Matthew L. Schwartz  
Matthew L. Schwartz  
BOIES SCHILLER FLEXNER LLP  
575 Lexington Avenue  
New York, New York 10022

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<sup>1</sup> The Kazakh Entities have conferred with all parties and shared copies of the proposed Second Letter of Request to the Republic of Cyprus in the attached form; the Khrapunovs and Triadou object to the proposed Second Letter of Request, taking the position that it would unnecessarily extend discovery. The Kazakh Entities are hopeful that the Second Letter of Request will not be particularly time-consuming, now that lines of communication with the Ministry of Justice are open, and do not believe that the Second Letter of Request will require an extension of discovery. In any event, any such issue could be addressed at the close of discovery, if the Second Letter of Request remains pending at that time.

<sup>2</sup> The Kazakh Entities are transmitting this Second Letter of Request to the Court by both ECF and hand delivery. The hand-delivered version will have attached two copies of the proposed Second Letter of Request, to comply with the U.S. Department of State's recommendation that Hague Convention requests be prepared in duplicate. Both copies are labeled Exhibit 1.

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